

**ATTACHMENT #29(B)**

**EXCERPTS FROM AUGUST 6, 2007 OIG  
REPORT ON FMCSA'S CROSS BORDER  
ACTIONS**

**(7 Pages)**

**FOLLOW-UP AUDIT ON THE  
IMPLEMENTATION OF THE NORTH  
AMERICAN FREE TRADE AGREEMENT'S  
CROSS-BORDER TRUCKING PROVISIONS**

*Federal Motor Carrier Safety Administration*

*Report Number: MH-2007-062*

*Date Issued: August 6, 2007*

Our current work also found that FMCSA took the actions it agreed to in response to our nine January 2005 report recommendations. FMCSA continues to work with the states and others to resolve prior report issues that its actions did not fully resolve. FMCSA's completed actions include (1) ensuring that five states, which had not yet done so, adopted a rule that requires enforcement action against Mexican motor carriers or others operating without proper authority from FMCSA and (2) prompting states with high-volume motor carrier commercial vehicle crossings to address the maintenance of weigh-in-motion scales in commercial vehicle safety plans.

Despite the progress FMCSA has made, additional improvements are needed in two of the eight Section 350 (c)(1) criteria.

- **Improving the quality of the data used to monitor Mexican commercial driver traffic convictions in the United States:** Our work determined that the system used to monitor Mexican commercial driver license convictions, the 52nd State System, still contains data inconsistencies. Enforcement officials need the data to identify drivers not permitted to operate on U.S. highways.
- **Ensuring adequate capacity to inspect Mexican buses:** Although FMCSA, in response to our 2005 audit, implemented the Southern Border Commercial Bus Inspection Plan that identified inspection issues and strategies for addressing those issues for specific bus border crossings, other important issues have surfaced. For example, at one high-volume crossing, physical space and capacity limitations prevented inspections during high-volume holiday periods. This means that Mexican buses granted long-haul operating authority in the United States may not be inspected during busy periods.

Additionally, FMCSA and the Department should continue to address two areas noted in our January 2005 report that are outside the Section 350 criteria.

- **Fully implementing FMCSA's policy on ensuring Mexican carrier compliance with Federal motor vehicle manufacturing safety standards:** One mechanism Federal inspectors could use to ensure that Mexican vehicles have complied with manufacturing safety standards is to check a vehicle's identification number to identify the year of manufacture. However, FMCSA has not issued additional guidance that would make it mandatory for inspectors to check the vehicle number and record it in inspection records.
- **Continue focusing on Mexican carrier drug and alcohol testing issues:** Mexico has no certified testing laboratories and any samples collected in Mexico must be sent to certified laboratories in the United States. Although FMCSA has taken the actions noted in our prior report, it is not clear whether

them. FMCSA concurred with all of our recommendations and proposed corrective actions, which we have accepted. Specifically, FMCSA concurred with our recommendation to improve the 52nd State System's comprehensiveness and consistency by ensuring that all southern border states complete their plans for corrective actions, instituting a monthly data report to identify problems, and periodically notifying states of any inconsistencies it finds. FMCSA also concurred with the recommendation to modify the state commercial bus inspection plan to ensure adequate coverage at the Lincoln-Juarez crossing at Laredo, Texas, during periods of peak bus traffic. In addition, it plans to contract a review of the effectiveness of its commercial bus inspection plan.

FMCSA agreed to require its inspectors to look at the vehicle identification number for all long-haul, Mexico-domiciled carriers to check on vehicle compliance with manufacturing standards and to record this information. FMCSA also states that it will revise its system software so that it will automatically remind its inspectors to enter the vehicle identification number. Furthermore, FMCSA agreed to establish an action plan, in coordination with the Department's Office of Drug and Alcohol Policy and Compliance, to conduct audits of various Mexican drug collection facilities and laboratory and to work with Mexico to meet U.S. requirements. Our complete analysis of FMCSA comments is on pages 13 through 14 of this report.

- 16 percent of the queries resulted in a “driver not found” report, which, according to FMCSA, could have resulted from enforcement official input errors at the time the query was made.

While FMCSA asserted that the data are now comprehensive, our ability to test the comprehensiveness of LIFIS information was limited because LIFIS is under the control of the Government of Mexico. We conducted audit work for our June 2002 report<sup>13</sup> that validated the accuracy of information in LIFIS by tracing information in the system back to source documents. However, during the current audit, we could not determine whether the large percentage of queries to LIFIS that resulted in a response of “driver not found” were due to data entry problems by U.S. users of the system, attempts by Mexican drivers to operate with invalid licenses, incompleteness of the Mexican database, or other unknown reasons.

**FMCSA took positive action to improve bus inspection coverage, but additional issues should be addressed.** The FY 2002 Act criteria<sup>14</sup> called for the OIG to verify whether FMCSA has adequate capacity at crossings to conduct a sufficient number of meaningful vehicle safety inspections. These criteria apply to buses as well as trucks. The FY 2002 Act does not distinguish commercial buses from commercial trucks, although buses operate differently from commercial trucks at the border. Buses are permitted to enter the United States at separate bus crossings and at times when commercial trucks are restricted. While our January 2005 report did not identify issues specific to truck or bus inspections conducted at commercial crossings, we found that the number of staff at some designated bus crossings was insufficient to meet the Act’s criteria for verifying the bus driver’s commercial license and inspecting vehicles.

Our January 2005 report recommended that FMCSA revise policies, procedures, staffing, and facility plans to make Mexican bus coverage consistent with FMCSA policy on vehicle and driver inspections for commercial vehicles that are granted long-haul authority.<sup>15</sup> In response to our report, FMCSA worked with the U.S. Customs and Border Protection to identify mutually acceptable procedures and issued the Southern Border Commercial Bus Inspection Plan. The Inspection Plans identified the ports of entry in each southern border state along with a description of their respective bus inspection issues and the planned strategies for addressing those issues.

<sup>13</sup> OIG Report Number MH-2002-94, Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border, June 25, 2002.

<sup>14</sup> Section 350 (c)(1)(F).

<sup>15</sup> Approximately 250,000 buses crossed the southern border in FY 2005. Mexican bus inspections include inspections of Mexican motor coaches, buses, and school buses. In FY 2006, FMCSA reported 19,166 bus inspections performed in the four southern border states. This was a further decrease from the 27,262 bus inspections reported in FY 2005 and the 29,124 reported in FY 2004.

## Findings

As part of our present audit, we observed a bus crossing in Laredo, Texas, that services an average of 3,000 bus crossings monthly (see figure 3). At this crossing, we identified physical space and capacity limitations that prevented FMCSA and the state motor carrier inspectors from conducting bus inspections during high-volume holiday periods. This concern needs to be addressed to ensure that Mexican bus carriers granted long-haul authority are not able to avoid vehicle or license inspections during busy periods at this crossing. However, this important issue was not identified in FMCSA's Southern Border Commercial Bus Inspection Plan, which covers this crossing. Additionally, when we surveyed selected inspectors at border crossings, other bus inspection items were brought to our attention, such as lack of a ramp on which to conduct inspections. FMCSA should routinely confirm the effectiveness of its inspection plan, either by periodically surveying its inspectors or pursuing other means, to identify site-specific issues to improve bus inspections.

**Figure 3. FMCSA Bus Inspection at Laredo, Texas, September 2006**



Source: OIG

### **Issues Not Specified in Section 350 of the FY 2002 Act Also Need FMCSA's Continued Attention**

There are two issues aside from the specific requirements of Section 350 that FMCSA should continue to address. FMCSA needs to take actions to fully implement a FMCSA policy on compliance with Federal motor vehicle manufacturing safety standards. Further, FMCSA's continued attention is needed on drug and alcohol testing issues.

### **Findings**

**FMCSA needs to implement its policy on Mexican carrier compliance with motor vehicle manufacturing safety standards.** Our January 2005 report urged FMCSA to resolve issues related to a March 2002 rule it proposed requiring Mexican motor carriers operating commercial vehicles in the United States to display a label from the manufacturer asserting that the vehicle met all applicable National Highway Transportation Safety Administration vehicle manufacturing safety standards when it was built. In August 2005, FMCSA withdrew the proposed rulemaking after determining that it could effectively ensure Mexican motor carriers' compliance with these standards while operating in the United States by enforcing established motor carrier safety regulations and policies.

When FMCSA withdrew the rulemaking, it issued an internal policy to its staff requiring Mexico-domiciled carriers applying to operate in the United States to certify that their vehicles were built or retrofitted in compliance with applicable manufacturing safety standards. According to the internal policy, the certification confirmation will occur during the pre-authority safety audit and subsequent inspections. Additionally, under the policy, if FMCSA or state inspectors determine through vehicle inspections or during a pre-authority safety audit that Mexican motor carriers are operating vehicles that do not comply with the safety standards, they could deny, suspend, or revoke a carrier's operating authority or certificate of registration or issue penalties for falsification of records.

Our current work did not assess FMCSA's rationale for withdrawing the rulemaking, but we identified a problem hindering the full implementation of the August 2005 internal policy. The policy provided instructions to FMCSA inspection staff on how to determine whether a vehicle complies with applicable manufacturing standards. For example, according to the instructions, for any vehicle that does not carry a label certifying compliance with these standards, an inspector can check the vehicle identification number (which identifies the model year). FMCSA has determined that most vehicles produced in Mexico beginning in model year 1996 have met applicable manufacturing standards. However, the policy stated that guidance will be forthcoming before the August 2005 policy can be implemented. To date, no additional guidance has been provided.

As a result, the August 2005 policy addresses procedures for recording vehicle identification numbers, but does not require inspectors to record this information. Our analysis of FMCSA's FY 2005 Mexican motor carrier inspection records database showed that additional guidance may be needed. Data show that inspectors are entering Mexican motor carriers' vehicle identification numbers in the inspection database only 37 percent of the time. For the remaining 63 percent, the optional vehicle identification number database field included non-related or incomplete data or no data at all.

## Findings